



{In Archive} EPA and the BDCP

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Cc: gorke.roger

Bcc: Tom Hagler

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Hi all -

I wanted to follow up on the comment I made during the CEQ call today. As David knows, I've been sitting in on most of the Tuesday morning regional Federal BDCP calls, at least for the first hour or so. EPA does not have a role in most of the issues discussed on these calls, but I have a couple of observations I wanted to convey. As these points are not really central to the primary ESA issues the team is grappling with, I have not wanted to belabor these points with the entire group. But they are important to EPA.

The first concerns the degree to which water quality factors into the upcoming draft BDCP. As you probably know, the entire Delta and most of its tributary rivers are listed as impaired under Section 303(d) of the Clean Water Act. That means that they are violating one or more of the CWA standards. Many of the actions being contemplated for the BDCP, both the conveyance and the habitat restoration actions, have the potential of exacerbating these water quality violations. This is especially true when the BDCP actions are combined with other proposed actions.

None of that is news - the water quality issues associated with both the conveyance and restoration activities were studied in depth during the CALFED process. During that process, we (the wq agencies with stakeholder input), determined which water quality parameters should be monitored and used as "performance measures" in evaluating conveyance alternatives and other actions. During BDCP scoping, EPA suggested how the BDCP alternatives should evaluate water quality impacts, drawing on that CALFED work. (see our scoping letter of May 14, 2009)

I understand the discussion on the BDCP will intensify over the next month or so, leading to the release of a draft BDCP of some kind in November. I gather from comments made by others on the Tuesday calls, that the "Effects Analysis" is problematic for many reasons. From EPA's perspective, we are concerned that it will not provide much, if any, of the water quality information we believe is relevant to water quality impacts. Similarly, the EIS/EIR has not yet developed significant information about water quality effects. And, as we have found out recently, the EIS/EIR is being delayed well into next year. Given this, EPA does not have any information upon which to evaluate the current proposals in the BDCP process as they relate to the water quality problems under our purview.

I am not suggesting that this can or should be addressed at this stage. As a tool for ESA compliance, the BDCP needs to address those issues of most concern to the ESA

agencies. Nevertheless, I want to make it very clear that, come November, EPA is not going to be in a position to say much about the draft BDCP (or whatever it will be called). We simply will not have any basis for making any judgments one way or the other.

A second issue I want to flag for further discussion relates to the State Board's recent flow recommendations. Like others, we are assessing the impact of that unique process and its findings. The stakeholders have taken extreme and polar opposite positions on the significance of those recommendations. For our part, the State's scientific findings will certainly have ramifications for EPA's programs. We would like to be part of any federal discussion about how we characterize the State Board's product.

I understand that you are heading into a grueling September and these issues are not at the top of the list. Whenever there's a good time, I am happy to discuss. - Karen

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